

House File 474 - Reprinted

HOUSE FILE 474
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HF 195)

(As Amended and Passed by the House March 22, 2023)

A BILL FOR

1 An Act relating to placement of custody of a newborn infant
2 under the newborn safe haven Act.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 232.2, Code 2023, is amended by adding
2 the following new subsection:

3 NEW SUBSECTION. 40A. "*Newborn infant*" means the same as
4 defined in section 233.1.

5 Sec. 2. Section 232.78, Code 2023, is amended by adding the
6 following new subsection:

7 NEW SUBSECTION. 9. *a.* Notwithstanding any provision
8 to the contrary including priority in placement of a child
9 under subsection 8, if an ex parte order is requested from the
10 juvenile court under this section pursuant to section 233.2 for
11 transfer of custody of a newborn infant, one of the following
12 shall be applicable:

13 (1) If physical custody of the newborn infant was not
14 initially relinquished under section 233.2 to an adoption
15 service provider, the department shall request that custody be
16 transferred to the department.

17 (2) If physical custody of the newborn infant was initially
18 relinquished under section 233.2 to an adoption service
19 provider, the adoption service provider shall request that
20 custody be transferred to the adoption service provider.

21 *b.* Upon receiving the order, the department or the adoption
22 service provider shall take custody of the newborn infant and
23 proceed in accordance with chapter 233.

24 *c.* For the purposes of this subsection, "*adoption service*
25 *provider*" means the same as defined in section 233.1.

26 Sec. 3. Section 232.95, Code 2023, is amended by adding the
27 following new subsection:

28 NEW SUBSECTION. 2A. Notwithstanding any provision to the
29 contrary including placement of custody of a child pursuant to
30 subsection 2, if the hearing under this section is the result
31 of a request for an ex parte order from the court pursuant to
32 section 232.78 for a newborn infant for whom physical custody
33 was relinquished pursuant to section 233.2, the court shall
34 place custody of the child as provided in section 232.78,
35 subsection 9, and proceed in accordance with chapter 233.

1 Sec. 4. Section 232.102, Code 2023, is amended by adding the
2 following new subsection:

3 NEW SUBSECTION. 11. Notwithstanding any provision to the
4 contrary, transfer of legal custody and placement of a newborn
5 infant for whom physical custody was relinquished pursuant to
6 section 233.2 shall be determined in accordance with chapter
7 233.

8 Sec. 5. Section 232.104, Code 2023, is amended by adding the
9 following new subsection:

10 NEW SUBSECTION. 10. Notwithstanding any provision to the
11 contrary, legal custody and placement of a newborn infant for
12 whom physical custody was relinquished pursuant to section
13 233.2 shall be determined in accordance with chapter 233.

14 Sec. 6. Section 233.1, Code 2023, is amended to read as
15 follows:

16 **233.1 Newborn safe haven Act — definitions.**

17 1. **This chapter** may be cited as the *“Newborn Safe Haven*
18 *Act”*.

19 2. For the purposes of **this chapter**, unless the context
20 otherwise requires:

21 a. “Adoption service provider” means a state-licensed
22 private agency which is recognized as exempt under section
23 501(c)(3) of the Internal Revenue Code and which represents
24 itself as placing children permanently or temporarily in
25 private family homes, receiving children for placement in
26 private family homes, and actually engaging in placement of
27 children in private family homes for adoption.

28 b. “Certified adoption investigator” means the same as
29 defined in section 600A.2.

30 c. “Department” means the department of health and human
31 services.

32 ~~a.~~ d. “First responder” means an emergency medical care
33 provider, a registered nurse staffing an authorized service
34 program under **section 147A.12**, a physician assistant staffing
35 an authorized service program under **section 147A.13**, a fire

1 fighter, or a peace officer as defined in [section 801.4](#).

2 ~~b.~~ e. "*Institutional health facility*" means a hospital
3 as defined in [section 135B.1](#), including a facility providing
4 medical or health services that is open twenty-four hours per
5 day, seven days per week and is a hospital emergency room or a
6 health care facility as defined in [section 135C.1](#).

7 ~~e.~~ f. "*Newborn infant*" means a child who is, or who appears
8 to be, ninety days of age or younger.

9 Sec. 7. Section 233.2, Code 2023, is amended to read as
10 follows:

11 **233.2 Newborn infant custody release procedures.**

12 1. *a.* A parent of a newborn infant may voluntarily release
13 custody of the newborn infant by relinquishing physical custody
14 of the newborn infant, without expressing an intent to again
15 assume physical custody, at an institutional health facility
16 or to an adoption service provider or by authorizing another
17 person to relinquish physical custody on the parent's behalf.
18 If physical custody of the newborn infant is not relinquished
19 directly to an individual on duty at the institutional health
20 facility or to an adoption service provider, the parent may
21 take other actions to be reasonably sure that an individual on
22 duty or the adoption service provider is aware that the newborn
23 infant has been left at the institutional health facility or
24 the location of the adoption service provider. The actions
25 may include but are not limited to making telephone contact
26 with the institutional health facility, the adoption service
27 provider, or a 911 service.

28 *b.* In lieu of the procedure described in paragraph "*a*",
29 a parent of a newborn infant may make telephone contact with
30 a 911 service and relinquish physical custody of the newborn
31 infant, without expressing an intent to again assume physical
32 custody, to a first responder who responds to the 911 telephone
33 call.

34 *c.* For the purposes of [this chapter](#) and for any judicial
35 proceedings associated with the newborn infant, a rebuttable

1 presumption arises that the person who relinquishes physical
2 custody at an institutional health facility, to an adoption
3 service provider, or to a first responder in accordance with
4 this section is the newborn infant's parent or has relinquished
5 physical custody with the parent's authorization.

6 2. a. Unless the parent or other person relinquishing
7 physical custody of a newborn infant clearly expresses an
8 intent to return to again assume physical custody of the
9 newborn infant, an individual on duty at the facility at which
10 physical custody of the newborn infant was relinquished, the
11 adoption service provider to whom physical custody of the
12 newborn infant was relinquished, or a first responder to whom
13 physical custody of the newborn infant was relinquished,
14 pursuant to [subsection 1](#) shall take physical custody of the
15 newborn infant. The individual on duty, the adoption service
16 provider, or the first responder may request the parent or
17 other person to provide the name of the parent or parents
18 and information on the medical history of the newborn infant
19 and the newborn infant's parent or parents. However, the
20 parent or other person is not required to provide the names
21 or medical history information to comply with [this section](#).
22 The individual on duty, the adoption service provider, or
23 the first responder may perform reasonable acts necessary to
24 protect the physical health or safety of the newborn infant.
25 The individual on duty and the institutional health facility
26 in which the individual was on duty, the adoption service
27 provider, and the first responder are immune from criminal or
28 civil liability for any acts or omissions made in good faith to
29 comply with [this section](#).

30 b. If the physical custody of a newborn infant is
31 relinquished to a first responder or to an adoption service
32 provider, the first responder or the adoption service provider
33 shall transport the newborn infant to the nearest institutional
34 health facility. The first responder or the adoption service
35 provider shall provide any parental identification or medical

1 history information to the institutional health facility.

2 *c.* If the physical custody of the newborn infant is
 3 relinquished at an institutional health facility, the state
 4 shall reimburse the institutional health facility for the
 5 institutional health facility's actual expenses in providing
 6 care to the newborn infant and in performing acts necessary to
 7 protect the physical health or safety of the newborn infant.
 8 The reimbursement shall be paid from moneys appropriated for
 9 this purpose to the department ~~of human services~~.

10 *d.* If the name of the parent is unknown to the institutional
 11 health facility, the individual on duty or other person
 12 designated by the institutional health facility at which
 13 physical custody of the newborn infant was relinquished shall
 14 submit the certificate of birth report as required pursuant
 15 to [section 144.14](#). If the name of the parent is disclosed
 16 to the institutional health facility, the facility shall
 17 submit the certificate of birth report as required pursuant to
 18 section 144.13. The department ~~of public health~~ shall not file
 19 the certificate of birth with the county of birth and shall
 20 otherwise maintain the confidentiality of the birth certificate
 21 in accordance with [section 144.43](#).

22 3. *a.* As soon as possible after the individual on duty,
 23 the adoption service provider, or the first responder assumes
 24 physical custody of a newborn infant released under subsection
 25 1, and, if applicable, the adoption service provider or
 26 the first responder transports the newborn infant to the
 27 nearest institutional health facility under subsection 2,
 28 paragraph "b", the individual ~~or~~ on duty shall notify either
 29 the department or an adoption service provider and the first
 30 responder shall notify the department ~~of human services~~ and
 31 the. The department or the adoption service provider shall
 32 take the actions necessary to assume the care, control, and
 33 custody of the newborn infant- as follows:

34 (1) If physical custody of the newborn infant was not
 35 initially relinquished to an adoption service provider,

1 the department shall immediately notify the juvenile court
2 and the county attorney of the department's action and the
3 circumstances surrounding the action and request an ex parte
4 order from the juvenile court ordering, in accordance with the
5 requirements of section 232.78, subsection 9, the department
6 to take custody of the newborn infant. Upon receiving the
7 order, the department shall take custody of the newborn
8 infant. After the department takes custody of the newborn
9 infant, notwithstanding any provision to the contrary relating
10 to priority placement of the child under section 232.78, the
11 department shall, if feasible, place the newborn infant in
12 a prospective adoptive home. The department shall maintain
13 a list of prospective adoptive homes that have completed
14 placement investigations and have been preapproved by the
15 department or a certified adoption investigator.

16 (2) If physical custody of the newborn infant was initially
17 relinquished to an adoption service provider, the adoption
18 service provider shall immediately notify the juvenile court
19 and the county attorney of the adoption service provider's
20 action and the circumstances surrounding the action and
21 request an ex parte order from the juvenile court ordering, in
22 accordance with the requirements of section 232.78, subsection
23 9, the adoption service provider to take custody of the
24 newborn infant. Upon receiving the order, the adoption service
25 provider shall take custody of the newborn infant.

26 b. Within twenty-four hours of the department or the
27 adoption service provider taking custody of the newborn infant,
28 the department or the adoption service provider shall notify
29 the juvenile court and the county attorney in writing of the
30 department's or adoption service provider's action and the
31 circumstances surrounding the action.

32 c. Within twenty-four hours of the adoption service provider
33 taking custody of the newborn infant, the adoption service
34 provider shall notify the department in writing that the
35 adoption service provider has taken custody of the newborn

1 infant and will comply with the requirements of chapter 233.

2 4. *a.* Upon being notified in writing by the department or
3 the adoption service provider under [subsection 3](#), the county
4 attorney shall file a petition alleging the newborn infant to
5 be a child in need of assistance in accordance with section
6 232.87 and a petition for termination of parental rights with
7 respect to the newborn infant in accordance with section
8 232.111, subsection 2, paragraph "a". A hearing on a child in
9 need of assistance petition filed pursuant to [this subsection](#)
10 shall be held at the earliest practicable time. A hearing on a
11 termination of parental rights petition filed pursuant to this
12 subsection shall be held no later than thirty days after the
13 day the physical custody of the newborn child was relinquished
14 in accordance with [subsection 1](#) unless the juvenile court
15 continues the hearing beyond the thirty days for good cause
16 shown.

17 *b.* Notice of a petition filed pursuant to this subsection by
18 either the department or the adoption service provider shall
19 be provided to any known parent and others in accordance with
20 the provisions of [chapter 232](#) and shall be served upon any
21 putative father registered with the state registrar of vital
22 statistics pursuant to [section 144.12A](#). In addition, prior to
23 holding a termination of parental rights hearing with respect
24 to the newborn infant, notice by publication shall be provided
25 as described in [section 600A.6, subsection 5](#).

26 5. Reasonable efforts, as defined in [section 232.102](#), that
27 are made in regard to the newborn infant shall be limited to
28 the efforts made in a timely manner to finalize a permanency
29 plan for the newborn infant.

30 6. An individual on duty at an institutional health
31 facility, an adoption service provider, or a first responder
32 who assumes custody of a newborn infant upon the release of
33 the newborn infant under [subsection 1](#) shall be provided notice
34 of any hearing held concerning the newborn infant at the same
35 time notice is provided to other parties to the hearing and

1 the individual or first responder may provide testimony at the
2 hearing.

3 Sec. 8. Section 233.5, subsection 2, Code 2023, is amended
4 to read as follows:

5 2. A record described in [subsection 1](#) may be inspected and
6 the contents disclosed without court order to the following:

7 a. The court and professional court staff, including
8 juvenile court officers.

9 b. The newborn infant and the newborn infant's counsel.

10 c. The newborn infant's parent, guardian, custodian, and
11 those persons' counsel.

12 d. The newborn infant's court appointed special advocate and
13 guardian ad litem.

14 e. The county attorney and the county attorney's assistants.

15 f. An agency, adoption service provider, association,
16 facility, or institution which has custody of the newborn
17 infant, or is legally responsible for the care, treatment, or
18 supervision of the newborn infant.

19 g. The newborn infant's foster parent or an individual
20 providing a prospective adoptive home or preadoptive care to
21 the newborn infant.

22 Sec. 9. Section 233.6, Code 2023, is amended to read as
23 follows:

24 **233.6 Educational and public information.**

25 ~~The department of human services, in consultation with the~~
26 ~~Iowa department of public health~~ and the department of justice,
27 shall develop and distribute the following:

28 1. An information card or other publication for
29 distribution by an institutional health facility, adoption
30 service provider, or a first responder to a parent who releases
31 custody of a newborn infant in accordance with [this chapter](#).
32 The publication shall inform the parent of a parent's rights
33 under [section 233.4](#), explain the request for medical history
34 information under [section 233.2, subsection 2](#), and provide
35 other information deemed pertinent by the departments.

1 2. Educational materials, public information announcements,
2 and other resources to develop awareness of the availability
3 of the newborn safe haven Act and the involvement of adoption
4 service providers among adolescents, young parents, and others
5 who might avail themselves of [this chapter](#).

6 3. Signage that may be used to identify the institutional
7 health facilities and adoption service providers at which
8 physical custody of a newborn infant may be relinquished in
9 accordance with [this chapter](#).